Exxon Company, U.S.A. *and* Local 877, International Brotherhood of Teamsters, AFL–CIO. Case 22–CA–18405

December 16, 1994

DECISION AND ORDER

BY MEMBERS DEVANEY, BROWNING, AND COHEN

On May 17, 1994, Administrative Law Judge Steven Davis issued the attached decision. The Respondent filed exceptions and a supporting brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions as modified and to adopt the recommended Order as modified.

1. The Respondent, a division of Exxon Corporation, was directed by the latter to transfer unit employees from the contractually mandated Northeast Medical Plan[1] to the Exxon Medical Plan (EMP) during the term of the Respondent's collective-bargaining agreement with the Union. Exxon corporate headquarters, however, authorized local management to bargain with the Union to permit unit employees to remain covered by the Northeast Medical Plan for the duration of the contract. The Respondent did not inform the Union of this authorization, which the judge referred to as a ''choice'' or ''possibility'' open to the parties through bargaining. We note, however, that the retention of the Northeast Plan for the duration of the extant contract was more than merely a possible bargaining concession. Rather, it was the Respondent's contractual obligation and the Union's contractual right, subject only to the Union's agreement to a change in plans during the terms of the contract.

2. In its discussions with the Union about the termination of the Northeast Medical Plan and the transfer of coverage to the EMP, the Respondent repeatedly stressed to the Union the need for union representatives to act quickly in light of the pending date for termination of the Northeast Plan. We note, however, that the decisions to terminate the Northeast Plan and not to continue that plan for the duration of the contract, as well as the timetable for the Northeast Plan's termination, were within the Respondent's control at all times and not decisions dependent on outside events or circumstances that might properly be invoked as legitimate reasons for demanding hasty action on the part of the Union.

[1] The Northeast Medical Plan was an Exxon plan.

3. We shall modify the judge's recommended Order and substitute a new notice to more closely reflect the circumstances of this case and the violations found.

Specifically, having found that the Respondent has violated Section 8(a)(5) and (1) by unilaterally implementing the EMP, we shall order the Respondent to restore the health and medical insurance coverage benefits that were provided to unit employees before the Exxon Northeast Medical Plan was unilaterally eliminated. We do not find that it is necessary here, however, to order that the Northeast Plan itself be reinstituted as an entity. In addition, the Respondent shall reimburse unit employees for any expenses ensuing from the unilateral change, as set forth in *Kraft Plumbing & Heating*, 252 NLRB 891 fn. 2 (1980), enfd. 661 F.2d 940 (9th Cir. 1981), such amounts to be computed in the manner set forth in *Ogle Protection Service*, 183 NLRB 682 (1970), enfd. 444 F.2d 502 (6th Cir. 1971), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). We shall also order the Respondent to bargain over any changes in medical benefits.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondent, Exxon Company, U.S.A., Linden, New Jersey, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

1. Substitute the following for paragraph 2(b).

''(b) Restore the health and medical coverage benefits that were provided to unit employees before the Exxon Northeast Medical Plan was unilaterally terminated and make the employees whole for any losses that they may have suffered as a result of the unilateral change.''

2. Substitute the following for paragraph 2(c) and reletter subsequent paragraphs.

''(c) Bargain in good faith with Local 877, International Brotherhood of Teamsters, AFL–CIO concerning any changes in health and medical insurance coverage benefits.''

3. Substitute the attached notice for that of the administrative law judge.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain collectively with Local 877, International Brotherhood of Teamsters, AFL–CIO by failing to continue in effect all the terms of our 1990–1993 collective-bargaining agreement with the Union, by transferring the employees in the unit from the Exxon Northeast Medical Plan to the Exxon Medical Plan without obtaining the Union's consent.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL restore the health and medical insurance coverage benefits that were provided to unit employees before the Exxon Northeast Medical plan was unilaterally terminated and we will make the employees whole for any losses they may have suffered as a result of the unilateral termination.

WE WILL bargain in good faith with Local 877, International Brotherhood of Teamsters, AFL–CIO concerning any changes in health and medical benefits.

EXXON COMPANY, U.S.A.

Bradley R. Williams, Esq., for the General Counsel.
B. F. Flaherty, Esq., of Linden, New Jersey, for the Respondent.

DECISION

STATEMENT OF THE CASE

STEVEN DAVIS, Administrative Law Judge. Pursuant to a charge filed on April 10, 1992, by Local 877, International Brotherhood of Teamsters, AFL–CIO (the Union), a complaint was issued against Exxon Company, U.S.A. (Respondent) on October 30, 1992. The complaint alleges, essentially, that Respondent failed to continue in effect all the terms and conditions of the parties' collective-bargaining agreement, by unilaterally transferring the members of the collective-bargaining unit from one medical plan to another without the Union's consent.

Respondent's answer denied the material allegations of the complaint, and a hearing was held before me in Newark, New Jersey, on August 9, 1993.

Upon the evidence presented in this proceeding, and my observation of the demeanor of the witnesses and after consideration of the briefs filed by the General Counsel and Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

Exxon Company, U.S.A., a division of Exxon Corporation, having an office and place of business in Linden, New Jersey, has been engaged in the production, refining, and marketing of oil and petroleum products and related products. During the past year, Respondent sold and shipped from its New Jersey facility goods valued in excess of $50,000 directly to points outside New Jersey. Respondent admits and I find that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

Respondent also admits and I find that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. THE ALLEGED UNFAIR LABOR PRACTICES

The Facts

1. Background

In 1966, the Union was certified as the exclusive collective-bargaining representative of the employees of Respondent in the following unit:

> All operating, mechanical and maintenance employees in the Bayway Refinery and Bayway Chemical Plant of the Companies, excluding office and plant clerical employees, watchpersons, guards, professional employees, technical employees, metal inspectors, gas testers, measurement persons, and supervisors, as defined in the National Labor Relations Act.

Before 1989, the employees received medical coverage through Blue Cross/Blue Shield. Ronald Kowalczyk, Respondent's human resources manager, testified that in 1989, the high cost of medical coverage with that plan created a deficit of more than $3 million.

Several options were considered, including the Exxon Northeast Medical Plan (Northeast). The employees voted for that plan, which then provided coverage for them. Kowalczyk stated that at that time, the Union was informed that Northeast was a larger plan, covering many different unions and employees, and that Respondent would not have the local ability to make changes to the plan.

The collective-bargaining agreement relevant herein ran from March 2, 1990, through March 1, 1993. Side letter A to that agreement stated that Respondent agreed to increase its maximum subsidies to Northeast in 3 successive years of the contract.[1]

2. The dispute

Kowalczyk testified that in February 1992, at a meeting at corporate headquarters in Houston, he was informed that Respondent had decided to terminate Northeast and transfer all its employees into one medical plan, the Exxon Medical Plan (EMP). At that time, Northeast covered about 6000 employees, and the EMP had about 22,000 participants.

However, Kowalczyk was further told that due to the collective-bargaining agreement, local management had the authority to negotiate the change to the new plan, including the authority to retain Northeast until the expiration of the collective-bargaining agreement, and could also bargain about the timing of the transition from Northeast with the Union. William Goodheart, Respondent's labor relations coordinator, corroborated that employees represented by the Union could remain covered by Northeast if that was the decision reached after bargaining.

On March 1, 1992, John Launchi, Respondent's human resources department head, told Ronald Fonseca, the Union's president, that Respondent wanted to move its employees

[1] Art. 27 of the contract states, inter alia, that ''this Agreement and exhibits attached thereto is now the only Agreement between the parties, except for the following letters: Side Letter A.''

from Northeast to the EMP, and requested a meeting with Fonseca. Fonseca replied that the Union did not want to go into the EMP, but that he would attend a meeting.

About five meetings were held between Respondent and the Union during March concerning this issue.

On about March 3, a meeting was held at which officials of Respondent and the Union were present. At the meeting, Respondent's representatives announced that Northeast would be terminated, and that the employees would be placed in the EMP. Proposed changes to the employees' medical coverage, and the change in the plan were presented and explained. Kowalczyk conceded that the Union ''voiced objection to anything other than Blue Cross/Blue Shield.''

Fonseca testified that he told Respondent's representatives at the meeting that he was not interested in the EMP, and did not want the employees moved into that plan. Martin Castimore, the Union's secretary-treasurer, told them that he did not believe that there should be any change.[2] At the end of the meeting, Fonseca announced that he did not ''like'' the EMP.

Kowalczyk stated that he told the union agents that they had to ''react fairly quickly'' because of the need to inform the employees of the change, and to have them complete 125-K account pretax forms.[3] Fonseca conceded that he was told that the EMP would go into effect on May 1.

Union official, Tomasso, testified that the Union had determined that it would not bargain about any item that was already in the collective-bargaining agreement—it did not want to reopen the contract in midterm. However, it was forced to do so because the Union was told that Northeast would be defunct in 2 months.

On March 9, Fonseca sent a letter to Kowalczyk, noting that Northeast was ''soon becoming non-existent,'' and requesting information about the EMP, including its financial history, specifically, monthly rate structure, past utilization of the plan, and the plan's payments and contributions. The letter further stated that ''I do not know at this time whether the Membership would want to enroll in the [EMP] or not and if not what plan they would want to enroll in. My opinion of the [EMP] will be formed by a close examination of its financial history and all of its provisions.''

Certain information was supplied but, according to Fonseca, none of the information he requested was provided. He did not followup by again requesting such information.

Another meeting took place on about March 13, at which Sharon Clark, the administrator of benefits for Northeast, addressed those assembled. She explained the provisions of the EMP. Fonseca told her at the end of the meeting that he did not like the plan.

Kowalczyk testified that during the meetings held with the Union beginning on about March 3, the Union did not disagree with the proposed changes in plans, and did not state that it wished to bargain about the changes.

At a union meeting on March 18, the membership decided that it did not want to be covered by the EMP, and instead wished to remain in Northeast. If that was not possible, they alternatively decided to return to Blue Cross/Blue Shield. Fonseca informed Respondent Manager Launchi of the membership's decision.

On March 21, Fonseca sent a letter to Respondent informing it that the Union did not want any of its members transferred from Northeast to the EMP. Rather, they wanted Blue Cross/Blue Shield.

Kowalczyk testified that that letter was the first indication to him that the Union was ''balking'' at the plan to transfer medical coverage from Northeast to the EMP. He stated that until that time, the Union had ''essentially acquiesced'' in the change from Northeast to the EMP. He conceded, however, that the Union never told him that it wanted to move into the EMP, or that it no longer wanted to be enrolled in Northeast.

On March 25, Kowalczyk sent a response to Fonseca in which he stated:

> In response to your letter of March 21, the Companies will agree to formal bargaining regarding the transition of medical coverage to an improved [EMP] for over 400 employees and family members affiliated with Local 877. These formal bargaining sessions will be a continuation of several meetings held during March where we met with you and certain members of your Executive Board outlining our desire to bring about an orderly transition for these participants. As you know, with the Union's concurrence, authorization was given to our Headquarters organization to send employees a package detailing the new medical plan coverage as well as Pre-Tax information, incorporating the new rate structure. Employees are to complete and return the Pre-Tax form by April 15. Also, meetings . . . are planned to better respond to employees' questions prior to the May 1 effective date.
>
> As I am sure you will agree from the previously mentioned schedule, time is of the essence and, we believe formal bargaining should begin immediately. Therefore, I have scheduled the first session to begin on March 26 at 1 p.m.[4]

Fonseca testified that he immediately called Kowalczyk and told him to cancel the March 26 meeting since he would not attend, adding that the Union would not rebargain its contract, and did not want the employees to go into the EMP. Fonseca refused to bargain over the transition from Northeast to EMP.

Nevertheless, on March 26, Launchi asked Fonseca to attend a bargaining session regarding the transition of the employees from Northeast to the EMP. Fonseca told him to cancel the meeting.

On March 28, Fonseca sent a letter to Kowalczyk advising that the Union did not want the employees to be covered by the EMP, and stating that ''we have the right to choose our own medical plan.'' Further, the letter demanded that Respondent immediately bargain with the Union over the establishment of a union trust fund to provide medical and hospital benefits to its members. Fonseca received no response to that letter.

[2] Castimore was also quoted by Richard Tomasso, the Union's vice president, as saying that what was being presented was only a name change.

[3] Those forms permit the employees to receive medical supplemental payments on a tax-free, no-payment basis. The forms must be completed annually.

[4] Fonseca disputes that the Union agreed that employees could be sent documents regarding pretax information.

Fonseca testified, in explanation of that letter, that the Union wanted to stay in Northeast, or if unable to do so, return to Blue Cross/Blue Shield, or establish its own trust fund medical plan.

On about April 1, Launchi requested that Fonseca bargain regarding the transition of the Union's members into the EMP, and asked to meet the following day. Fonseca refused to bargain about a provision that was already in the collective-bargaining agreement, and refused to meet.

On April 3, Fonseca sent a letter to Kowalczyk, clarifying his March 28 letter. In this new letter, Fonseca stated that he wished to reach an agreement concerning the details of transferring money now being paid into Northeast, into a union trust fund established for the purpose of providing medical and hospital benefits. The letter added that the ''right to establish a Trust Fund or for Local 877 to have its own medical plan are inherent rights and not subject to bargaining.''

Thereafter, Launchi told Fonseca that the employees were being transferred into the EMP. Fonseca replied that they did not want to go into that plan.

On April 7, Kowalczyk sent a letter to Fonseca, advising him that ''with over 7,000 employees and families transitioning into the [EMP], Northeast no longer exists.'' The letter continued:

> Despite your request to the contrary . . . this letter is to notify you of the Company(s) intention to transfer those IBT members affected by this change into the [EMP]. This decision is being carried out to ensure that adequate medical coverage is continued at reasonable rates for over 400 employees affiliated with Local 877.

The letter further stated that regarding the Union's requests in its letters of March 21 and 28 for coverage pursuant to Blue Cross/Blue Shield and a union trust fund, ''both letters lack sufficient details for which to evaluate the merits of your proposals. Because of this lack of specificity, we interpreted these letters as a request to bargain.''

The letter noted that the Union refused to meet with it to bargain on two occasions, including on April 3 when Fonseca allegedly agreed to meet only to bargain about the establishment of a union trust fund. The letter concluded by saying that an impasse has been reached due to the Union's refusal to continue bargaining, and that ''because time is of the essence and an impasse has been reached, these people will be transferred to the [EMP] concurrent with the May 1 effective date. This remains the only remedy currently available that will ensure adequate medical coverage without risking significant financial harm to employees and their families.''

Kowalczyk conceded that the repeated referrals to time pressures were caused by the 2-month period, from March 2 to May 1, within which a health insurance plan had to be in place for the employees. The time constraints would not have been a factor had the employees been retained in Northeast, but that option was apparently not presented to the Union.

On April 13, Fonseca wrote to Kowalczyk, stating that he denied and ''claim false'' all the statements in the April 7 letter concerning the medical plans.

Northeast was terminated and ceased to exist on April 30, and on May 1 all employees were transferred into the EMP.

Analysis and Discussion

The complaint alleges that Respondent failed to continue in effect the terms and conditions of its collective-bargaining agreement with the Union, by unilaterally and without the Union's consent, transferring its unit employees from Northeast to the EMP.

> It is well established that an employer who is a party to an existing collective-bargaining agreement violates Section 8(a)(5) and (1) of the Act when it modifies the terms and conditions of employment established by that agreement without obtaining the consent of the Union. [*J & J Mfg. Corp*., 312 NLRB No. 40 (Sept. 20, 1993) (not reported in Board volume).]

Respondent first questions whether the health insurance plan is a term and condition of employment. It argues that the only mention of the health plan is in the side letter to the contract. I find that the health plan is a term and condition of employment and such coverage is provided for in the collective-bargaining agreement. The side letter providing for increases in subsidies to the plan bears the same date as the effective date of the contract, and was delivered by Respondent to the Union at the time of the execution of the agreement. It was also incorporated in the agreement.

Moreover, health insurance and health benefit plans are mandatory subjects of bargaining. *NLRB v. Katz*, 369 U.S. 736, 746 (1962); *Coastal Derby Refining Co*., 312 NLRB 495 (1993); *Trojan Mining & Processing*, 309 NLRB 770, 771 (1992).

The question therefore becomes whether Respondent violated its obligation to bargain with the Union.

It appears clear that a decision had been made by Respondent's corporate headquarters in February 1992, that Northeast would be terminated, and that all the unit employees, and indeed, all Respondent's employees, would be transferred to the EMP.

Respondent's initial approach was proper. Thus, on March 1, the Union was informed that Respondent wished to move its employees into the EMP, and requested a meeting with the Union. However, at the first meeting, it was announced that Northeast would be terminated, the employees placed in the EMP, and the plans' changes were presented.

Respondent's main argument is that the Union agreed to the change in plan from Northeast to the EMP, or if it did not expressly agree to such change, that by its actions it agreed, and in any event did not disagree with the change.

I find that the question to be resolved is whether the Union gave its consent to the change. *J & J*, supra; *Rapid Fur Dressing*, 278 NLRB 905, 906 (1986), and not, as argued by Respondent, whether a meaningful opportunity to bargain was given the Union, or whether the parties bargained to impasse over this issue. *Nestle Co*., 251 NLRB 1023 fn. 3 (1980).

Respondent maintains that the Union agreed with the change, or at least did not disagree with the proposed change until March 21 when it sent its letter indicating its desire to remain within Northeast. Respondent argues that upon receipt of that letter it first became aware of any dissent to the planned move into the EMP.

However, it is important to note that Kowalczyk conceded that at the first meeting, on March 3, the Union objected to

any plan other than Blue Cross/Blue Shield. Thus, Respondent became aware of the Union's objections to a change of plan from Northeast at the first meeting. I am aware that at that meeting, too, a union official said that the change in plan represented only a change in name, however the Union did voice its objection to a change from Northeast to the EMP at that meeting, and thereafter.

I credit the Union witnesses' testimony that they informed Respondent at that meeting that they did not like and were not interested in the EMP and did not want the employees moved into that plan. I make this finding based upon Kowalczyk's concession that they objected to any plan other than Blue Cross/Blue Shield, and by later events.

Specifically, Fonseca's letter of March 9 stated that he did not know whether the Union's membership wanted to enroll in the EMP ''or not'' or what plan they wished to enroll in, and that his opinion of the EMP would be determined upon an analysis of its financial history and terms. This clearly shows that, as of March 9, the Union had not agreed to the change in plan, but rather was uncertain of what position it and its members would take.

The only meeting which occurred between March 9 and the Union's March 21 unequivocal refusal to have its members transferred to the EMP, was the informational meeting of March 13, conducted by the benefits administrator, at which time Fonseca told her that he did not like the plan.

Accordingly, I find that from the March 3 meeting, Respondent was aware that the Union did not agree with, and had not consented to the change in plan from Northeast to EMP.

Upon receipt of the March 21 letter, Respondent, in its March 25 letter, offered to bargain regarding the ''transition of medical coverage to an improved [EMP].'' Thus, Respondent was not offering to bargain over the retention of Northeast, or a change to Blue Cross/Blue Shield, but rather only as to the change of medical coverage to EMP, and asserted in that letter, that the bargaining to be held would be a continuation of the bargaining in which its ''desire to bring about an orderly transition for these participants'' was made known. Thereafter, on March 26, and on about April 1, Launchi repeated Respondent's offer to bargain about the transition to the EMP.

Thereafter, the Union refused to bargain over the transition of the employees to the EMP, and suggested alternatives, including having the employees covered by Blue Cross/Blue Shield or a union-established trust fund medical plan.

On April 7, Respondent notified the Union that Northeast no longer existed, and that due to an impasse caused by the Union's refusal to bargain, the employees would be transferred to the EMP effective May 1.

Although I find that Respondent's representatives were authorized to permit the unit employees to remain in Northeast if that was the result of the bargaining, nevertheless, it does not appear that the Union was informed of this choice. Thus, the Union did not set forth that position in any of its letters. Rather, its March 9 letter noted that Northeast would ''soon [become] non-existent.'' Clearly, if the Union had been offered an opportunity to have the employees retain Northeast as its health plan, it would have chosen to do so, rather than suggest a return to Blue Cross/Blue Shield, or its own trust fund.

Rather, it appears that Respondent preferred, from an economic and administrative standpoint, to have all its employees placed in one plan, the EMP. That was the decision made at headquarters, and an exception, to permit the retention of Northeast, was made here only because of the outstanding collective-bargaining agreement. In any event, the employees would remain in Northeast only until the expiration of the contract.

The fact that Respondent was pressed for time cannot excuse a failure to bargain with the Union. Bargaining over the retention of Northeast would have been more time consuming, but Respondent could have begun the process earlier. *Valley Counseling Services*, 305 NLRB 959, 961 (1991). I accordingly find that no impasse existed as no meaningful bargaining, or opportunity to bargain, occurred.

Under these circumstances, even assuming that this standard should be applied, I cannot find that an opportunity for meaningful bargaining occurred. Respondent entered the ''negotiations'' with a mandate from headquarters to transfer all its employees to the EMP. It did not suggest to the Union the possibility of retaining Northeast although it was authorized to do so. From the first meeting the Union objected to a change from Northeast, but nevertheless, Respondent went forward with its plan to ''transition'' the employees to the EMP. Nor does the evidence establish that the Union engaged in delaying tactics or led Respondent to believe that it was free to act unilaterally. I therefore cannot find that Respondent has established a clear and unmistakable waiver by the Union of a right to bargain about changes in terms and conditions of employment. *Mount Hope Trucking Co*., 313 NLRB 262 (1993).[5]

Inasmuch as the Union's consent to a modification of an existing term of the contract was not obtained, I find that Respondent was not entitled to unilaterally implement the EMP, and violated Section 8(a)(5) and (1) by doing so.

CONCLUSIONS OF LAW

1. The Respondent, Exxon Company, U.S.A., is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. Local 877, International Brotherhood of Teamsters, AFL–CIO is a labor organization within the meaning of Section 2(5) of the Act.

3. The following employees of the Respondent constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

> All operating, mechanical and maintenance employees in the Bayway Refinery and Bayway Chemical Plant of the Companies, excluding office and plant clerical employees, watchpersons, guards, professional employees, technical employees, metal inspectors, gas testers, measurement persons, and supervisors, as defined in the National Labor Relations Act.

4. By failing to continue in effect all the terms and conditions of its 1990–1993 collective-bargaining agreement with the Union, by transferring the members of the unit from the

[5] Art. 27-4 of the contract provides that ''the right of either party to require strict performance hereunder by the other party shall not be affected by any waiver, forbearance or course of dealing.''

Exxon Northeast Medical Plan into the Exxon Medical Plan without obtaining the Union's consent thereto, Respondent committed unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

5. The unfair labor practices found above affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall recommend that it cease and desist and take certain affirmative action designed to effectuate the policies of the Act.

Having found that the Respondent unlawfully implemented the Exxon Medical Plan, I shall recommend that Respondent be ordered to restore the status quo that existed just prior to its unlawful change from the Exxon Northeast Medical Plan, and make whole its employees for any loss they may have suffered by virtue of Respondent's unlawful change in its health insurance plans, with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). See *Isis Plumbing Co.*, 138 NLRB 716 (1962).

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[6]

ORDER

The Respondent, Exxon Company, U.S.A., Linden, New Jersey, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain collectively with Local 877, International Brotherhood of Teamsters, AFL–CIO, by failing to continue in effect all the terms and conditions of its 1990–1993 collective-bargaining agreement with the Union, by transferring the members of the unit from the Exxon Northeast Medical Plan into the Exxon Medical Plan without obtaining the Union's consent thereto.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Rescind the unilateral change in health insurance plan from the Exxon Northeast Medical Plan to the Exxon Medical Plan.

(b) Restore the Exxon Northeast Medical Plan provided to unit employees before it was unilaterally terminated, and make the employees whole for any losses which they may have suffered, and for any direct expenses which they may have been required to bear as a result of the unilateral change.

(c) Post at its Linden, New Jersey facility copies of the attached notice marked ''Appendix.''[7] Copies of the notice on forms provided by the Regional Director for Region 22, after being signed by an authorized representative of the Respondent, shall be posted by the Respondent immediately upon receipt, and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps Respondent has taken to comply.

[6] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[7] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading ''Posted by Order of the National Labor Relations Board'' shall read ''Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board.''